

Message Text

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ACTION H-03

INFO OCT-01 EA-06 ISO-00 SS-15 NSC-06 AID-01 /032 W
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C O N F I D E N T I A L SECTION 01 OF 02 MANILA 00498

E.O. 12065: GDS L/8/85 (ELLSON, DONALD C.) OR-P
TAGS: SHUM, OREP (NUNN, SAMUEL; BEDELL, BERKLEY), RP
SUBJECT: CODELS GIVEN MND BOOKLETS ON HUMAN RIGHTS AND
- AQUINO CASE; EMBASSY PROVIDES ENRILE
- WITH LIST OF HUMAN RIGHTS QUESTIONS

REF: MANILA 0375

1. SUMMARY: CODEL NUNN WAS GIVEN TWO DEFENSE MINISTRY
BOOKLETS JANUARY 5, ONE ON THE AQUINO CASE AND ONE ON
HUMAN RIGHTS. BOOKLET ON AQUINO CONTAINS ESSENTIALLY
YEAR-OLD INFORMATION
AND PROVIDES NOTHING NEW. HUMAN
RIGHTS BOOKLET UPDATES SIMILAR BOOKS GIVEN TO U.S.
VISITORS LAST YEAR. IT NOTES THAT PHIL MILITARY IS
CURRENTLY DETAINING 461 PERSONS CHARGED WITH PUBLIC
ORDER VIOLATIONS AND 1,976 PERSONS ACCUSED OF
COMMON CRIMES. DURING CODEL BEDELL MEETING WITH MINDEF
ENRILE JANUARY 8, AMBASSADOR PASSED TO ENRILE A LIST OF
HUMAN RIGHTS QUESTIONS BASED ON THIS DATA AND MARCOS
ASSERTION TO CODEL WOLFF THAT A RECENT LETTER OF
INSTRUCTION EFFECTIVELY ENDS MARTIAL LAW. END SUMMARY.

2. DURING CALL ON PRESIDENT MARCOS JANUARY 5, CODEL
NUNN WAS HANDED TWO BOOKLETS ON HUMAN RIGHTS
TOPICS, PREPARED BY GOP MINISTRY OF NATIONAL DEFENSE. WE
EXPECT CODEL BEDELL WILL ALSO BE GIVEN COPIES THIS WEEK.
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ONE, ENTITLED "THE CASE AGAINST BENIGNO S. AQUINO, JR.", IS
ALMOST VERBATIM VERSION OF GOP NATIONAL SECURITY
COUNCIL DOCUMENT PUBLICIZED LAST SPRING AFTER AQUINO RE-
QUESTED TEMPORARY RELEASE TO CAMPAIGN FOR THE INTERIM LEG-
ISLATURE; IT PROVIDES NO NEW INFORMATION. IN ELEVEN XEROX-
ED PAGES IT SUMMARIZES PROSECUTION EVIDENCE BEFORE MILITARY
TRIBUNAL ON CHARGES OF MURDER, SUBVERSION AND ILLEGAL

POSSESSION OF FIREARMS; PRESENTS LEGAL AND NATIONAL SECURITY ARGUMENTS AGAINST AQUINO'S TEMPORARY RELEASE; AND DESCRIBED SPECIAL PRIVILEGES ACCORDED AQUINO DURING HIS DETENTION. APPENDIX EXCERPTS TESTIMONY OF PROSECUTION WITNESSES ON THE MURDER CHARGE. COMMENT: THIS BOOKLET WAS PROBABLY PREPARED AFTER AMBASSADOR INFORMED PRESIDENT MARCOS DECEMBER 28 THAT CODEL BEDELL WOULD ASK TO VISIT AQUINO. NONETHELESS, IT APPEARS TO INDICATE THAT AQUINO'S RELEASE IS NOT CURRENTLY UNDER CONSIDERATION. BEDELL WILL SEE AQUINO JANUARY 9 AND MARCOS FOLLOWING DAY. END COMMENT.

3. THE OTHER BOOKLET, ENTITLED "ADVANCEMENT OF HUMAN RIGHTS IN THE PHILIPPINES" AND DATED JANUARY 5, IS AN UPDATE OF SIMILAR BOOKLETS PROVIDED CODEL WOLFF AND ASSISTANT SECRETARY DERIAN IN JANUARY 1978 AND VICE PRESIDENT MONDALE IN MAY 1978. IT STRESSES RATIONALE FOR MARTIAL LAW, PROGRESS TOWARD THE "NEW SOCIETY" AND PROTECTION OF RIGHTS OF DETAINEES. SEE PARA 5 FOR ITS CURRENT DATA ON NUMBER OF DETAINEES IN MILITARY CUSTODY.

4. BASED ON "HUMAN RIGHTS" BOOKLET AND PRESIDENT MARCOS' STATEMENT TO CODEL WOLFF JANUARY 2 THAT HIS LETTER OF INSTRUCTION NO. 772, DATED NOVEMBER 27 (78 MANILA 21706), EFFECTIVELY LIFTS MARTIAL LAW, AMBASSADOR PASSED A SERIES OF QUESTIONS TO MINDEF ENRILE DURING A BREAK-CONFIDENTIAL

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FAST MEETING WITH CODEL BEDELL JANUARY 8. ENRILE UNDERTOOK TO PROVIDE ANSWERS. TEXT OF QUESTIONS FOLLOWS.

5. BEGIN QUOTE:

- (1) THE MINISTRY OF NATIONAL DEFENSE'S BOOK "ADVANCEMENT OF HUMAN RIGHTS IN THE PHILIPPINES," GIVEN TO SENATOR NUNN ON JANUARY 5, STATES THAT "TO DATE, ONLY SOME 2,000 PERSONS REMAIN IN MILITARY CUSTODY, 1,976 OF WHOM ARE CHARGED WITH COMMISSION OF COMMON CRIMES, WITH THE REMAINING 461 CATEGORIZED AS PUBLIC ORDER VIOLATORS" (THE TWO FIGURES ADD UP TO 2,437). A SIMILAR MND BOOK "PHILIPPINE MARTIAL LAW AND HUMAN RIGHTS", DATED DECEMBER 31, 1977, AND GIVEN TO CONGRESSMAN WOLFF AND ASSISTANT SECRETARY DERIAN LAST JANUARY, SAYS THAT "OF 2,633 PERSONS STILL UNDER MILITARY CUSTODY, 2,013 ARE BEING HELD FOR COMMON CRIMES AND THE REMAINING 620 FOR VARIOUS VIOLATIONS OF THE EXISTING LAWS ON REBELLION AND SUBVERSION." ANOTHER BOOK OF THE SAME TITLE, DATED APRIL 30, 1978, AND GIVEN TO VICE PRESIDENT MONDALE IN MAY, SAYS THAT "AS OF 24 APRIL 1978, A TOTAL OF 2,015 PERSONS ARE STILL UNDER MILITARY CUSTODY. 1,632 ARE

BEING HELD FOR COMMON CRIMES AND THE REMAINING 473 FOR VARIOUS VIOLATIONS OF THE EXISTING LAWS ON SEDITION, REBELLION AND SUBVERSION." PRESIDENT MARCOS TOLD THE PRESS JUNE 27 THAT LESS THAN 300 PERSONS WERE THEN IN MILITARY CUSTODY AND THAT THESE WERE "HARD-CORE LEFTISTS." THE DATA MINISTER ENRILE PROVIDED THE AMBASSADOR ON AUGUST 15 LISTED 272 PERSONS IN MILITARY DETENTION ON PUBLIC ORDER CHARGES.

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C O N F I D E N T I A L SECTION 02 OF 02 MANILA 00498

- A. ARE THESE VARIOUS FIGURES COMPARABLE? E.G., THE NUMBER OF PUBLIC ORDER VIOLATORS IN MILITARY DETENTION WOULD APPEAR TO HAVE VARIED AS FOLLOWS:

-	DECEMBER 31, 1977	620
-	APRIL 24, 1978	473
-	JUNE 27, 1978	LESS THAN 300
-	AUGUST 15, 1978	272
-	JANUARY 5, 1979	461

- B. WE GATHER FROM PRESS REPORTS THAT SOME 3,000 PERSONS HAVE BEEN RELEASED FROM MILITARY DETENTION SINCE APRIL 1978 AND THAT MANY OF THESE WERE BEING HELD ON PUBLIC ORDER CHARGES.

- -- HOW MANY PERSONS ARE NOW IN MILITARY CUSTODY WHO WERE ARRESTED DURING 1978?

- C. HOW MANY PERSONS CHARGED WITH PUBLIC ORDER VIOLATIONS ARE PRESENTLY FREE ON TEMPORARY RELEASE BUT STILL FACING EVENTUAL PROSECUTION?

- -- WHAT RESTRICTIONS APPLY TO THEM?

- (2) PRESIDENT MARCOS TOLD CONGRESSMAN WOLFF ON
JANUARY 2, 1979, THAT LETTER OF INSTRUCTION 772 OF
NOVEMBER 27 HAD EFFECTIVELY LIFTED MARTIAL LAW BY ENDING
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MILITARY JURISDICTION AND ARREST AUTHORITY.

- A. HAVE ANY EXISTING PUBLIC ORDER CASES BEEN
TRANSFERRED TO CIVILIAN COURTS UNDER LOI 772 (OR PREVIOUS
LOI'S)?

- -- WHAT IS THEIR CURRENT STATUS?

- -- HAVE ANY NEW PUBLIC ORDER CASES BEEN SENT
DIRECTLY TO CIVILIAN COURTS TO DATE?

- B. AS SUCH CASES ARE TRANSFERRED, ARE DETAINEES
BEING TRANSFERRED PHYSICALLY FROM MILITARY TO CIVILIAN
CUSTODY?

- C. LOI 772 STATES THAT "ALL CRIMINAL CASES" ARE
NOW TO BE "REFERRED IN THE FIRST INSTANCE" TO CIVIL COURTS.

- -- DOES THIS INCLUDE MILITARY PERSONNEL ACCUSED OF
CRIMES?

- -- UNDER WHAT CONDITIONS MIGHT A CRIMINAL CASE BE
REMANDED TO MILITARY JURISDICTION AFTER FIRST BEING
REFERRED TO A CIVIL COURT?

- -- WHAT CRIMES STILL REMAIN UNDER MILITARY
JURISDICTION?

- D. MUST THE PRESIDENT NOW PERSONALLY APPROVE AND
SIGN ALL ARREST, SEARCH AND SEIZURE ORDERS (ASSO'S),
OR CAN HE DELEGATE THIS AUTHORITY?

- -- HAS THE PRESIDENT ISSUED ANY ASSO'S SINCE LOI 772
WAS ISSUED?

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- -- CAN THE PC/INP NOW GO TO THE CIVIL COURTS FOR
ARREST AND SEARCH WARRANTS IN PUBLIC ORDER CASES? END
QUOTE. MURPHY

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